REMARKS

Reconsideration of the application in light of the present amendments and the following remarks is respectfully requested.

I. Examiner Interview

Applicants wish to thank the Examiner for the personal interview with the undersigned of December 3, 2003. In compliance with the requirements of 37 C.F.R. §1.133(b), the substance of the interview is incorporated herein and is reflected both in the present amendments and remarks.

II. Status of the Claims

Claims 1, 8-10, 14, 16-18 and 27 have been amended as discussed below. No new matter has been added by these amendments. Claims 2-4, 11-13, 19-26 and 28-30 have been canceled, without prejudice. Therefore, claims 1, 5-10, 14-18, and 27 are currently pending in the application.

(A) Claim Amendments

Claims 1, 8-10, 14, 16-18 and 27 have been amended as discussed below.

Claim 1 has been amended to recite a method of determining risk of a neurological disease associated with amyloidosis. Support for the present amendment is found at page 5, lines 2-7 and lines 21-23. Claim 1 has also been amended to recite the additional step of determining a level of anti-Aβ_{42} antibody in a biological sample selected from the group consisting of blood, serum, plasma and cerebral spinal fluid from a subject. Support for the present amendment is found at page 4, lines 15-16 and page 9, lines 5-8. Additionally, claim

1 has been amended to further define normal level. Support for the amendment is found at page 3, lines 12-18.

Claim 8 has been amended to depend from claim 1. No new matter has been introduced by the amendment.

Claims 9 and 18 have been amended to correct a typographical error. No new matter has been introduced by the amendment.

Claim 10 has been amended to recite a method of determining risk of Alzheimer's disease. Support for the amendment is found at page 18, lines 22-27. Claim 10 has also been amended to recite the additional step of determining a level of anti-$A\beta_{42}$ antibody in a biological sample selected from the group consisting of blood, serum, plasma and cerebral spinal fluid from a subject. Support for the amendment is found at page 4, lines 15-16. Additionally, claim 10 has been amended to further define normal level. Support for the amendment is found at page 3, lines 12-18.

Claims 14 and 27 have been amended to recite anti-$A\beta_{42}$ antibody in order to use consistent language throughout the claims. No new matter has been introduced by the amendments.

Claim 16 has been amended to recite a method of determining risk of a Alzheimer's disease. Support for the amendment is found at page 18, lines 22-27. Claim 16 has also been amended to recite the additional step of determining a level of anti-$A\beta_{42}$ antibody in a biological sample selected from the group consisting of blood, serum, plasma and cerebral spinal fluid from a subject. Support for the present amendment is found at page 4, lines 15-16. Additionally, claim 16 has been amended to further define normal level. Support for the amendment is found at page 3, lines 12-18. Claim 16, has been further amended to more

clearly define the "subject" in the present claim. No new matter has been introduced by the amendment.

Claim 17 has been amended to depend from claim 16. The amendment does not introduce any new matter to the present application.

III. Objections to the Specification and Claims

The Examiner's objections to the specification and claims are summarized and addressed as follows:

(A) Objections to the Specification

The Examiner has objected to the format of the abstract, particularly that the abstract exceeded 150 words and consisted of two paragraphs. The abstract has been amended herein, in order to comply with 35 U.S.C. §111 and 37 C.F.R. §1.72.

(B) Objection to the Claims

The Examiner has objected to the form of claim 7. Specifically, the Examiner contends that dependent claim 7 does not further limit claim 1 from which it depends. Without conceding the correctness of the Examiner's objection, claim 1 has been amended to recite a method of assessing the risk of neurological disease associated with amyloidosis, wherein a lower level of anti-$A\beta_{42}$ antibody in the subject, compared to a normal level, indicates the risk of neurological disease. The applicants respectfully submit that claim 7 defines assessing risk as diagnosing. Therefore, the Examiner's objection is rendered moot by the present amendment.

The Examiner has also objected to claim 17 under 37 C.F.R. §1.75. Particularly, the Examiner contends that claim 17 is essentially a duplicate of claim 8 and therefore constitutes

double patenting. Without conceding the correctness of the Examiner's objection, claim 17 has been amended to depend from claim 16. The applicants submit that the present amendment distinguishes claims 8 and 17, thereby obviating the Examiner's objection.

IV. Claim Rejections

The Examiner's rejections of the claims are summarized and addressed below.

(A) Rejections under 35 U.S.C §112, first paragraph

The Examiner has rejected claims 1-18 and 27 for lack of enablement. Particularly, the Examiner contends that claims 1-9 and 17, which are directed to a method of assessing a patient's risk of a neurodegenerative disease are not enabled, as the specification only provides evidence of assessing risk of Alzheimer's disease ("AD"). In response to the Examiner's rejection, the claims have been amended such that the method of claims 1-9 and 17 relate to a method of assessing the risk of a neurological disease or disorder associated with amyloidosis.

Additionally, the Examiner has rejected claims 10-16, 18 and 27 for lack of enablement. The Examiner contends that the specification only provides examples of comparing the anti-$A\beta_{42}$ antibody levels of subjects who have met the NINCDS-ADRDA criteria for probable AD with the level of normal subjects and therefore does not enable one to make a definitive diagnosis of AD. As suggested by the Examiner, but without conceding the correctness of the Examiner's rejection, claims 10 and 16 have been amended to recite a method of assessing the risk of AD, wherein a lower level of anti-$A\beta_{42}$ antibody in a biological sample from the subject compared to a normal level indicates the risk of AD.

The Examiner has also rejected claim 13 for lack of enablement, asserting that the identification of normal anti-$A\beta_{42}$ antibody levels in a sample from all subjects would require undue experimentation. Without conceding the correctness of the Examiner's rejection, claim 13 has been cancelled.

(B) Rejections under 35 U.S.C §112, second paragraph

The Examiner has rejected Claims 1-18 and 27 for being indefinite. Particularly, the Examiner contends that the phrase "normal level" renders claims 1 and 10 vague and indefinite. In response to the Examiner's rejection, and as suggested by the Examiner, claims 1 and 10 have been amended. Specifically, claim 1 has been amended to further recite the normal level being determined from a group consisting of age-matched normal subjects who do not show any symptoms of neurodegenerative disease or disorder associated with amyloidosis. Claim 10 has been amended to recite the normal level being determined from a group consisting of age-matched normal subjects who do not show any symptoms of Alzheimer's Disease.

The Examiner also contends that claims 1, 10 and 16 are indefinite as they omit an essential step. In response to the Examiner's rejection, but without conceding the correctness of the Examiner's rejection, claims 1, 10 and 16 have been amended to recite the step of determining the level of anti-$A\beta_{42}$ antibody in the subject. The applicants submit that the present amendment not only obviates the present rejection, but also provides a proper antecedent basis for claims 5 and 14, thereby overcoming the Examiner's rejection of claims 5 and 14 for lack of antecedent basis.

The Examiner has rejected claims 1, 10 and 16 as indefinite for having a preamble which is inconsistent with one of the claim limitations. As noted previously, claims 1, 10 and

16 have been amended to recite a method of assessing the risk of disease, wherein a lower level of anti-$A\beta_{42}$ antibody in a biological sample from the subject compared to a normal level indicates the risk of disease. The applicants submit that in light of the present amendment, the preamble and the limitations of claims 1, 10 and 16 are consistent.

The Examiner has rejected claims 3, 4, 5, 12, 13, 14 and 27 for lack of antecedent basis. Claims 3, 4, 12 and 13 have been cancelled without prejudice. As noted previously, claims 1 and 10 have been amended, thereby providing a proper antecedent basis for claims 5 and 14. Additionally, claim 27 has been amended such that the terminology used throughout the claims is consistent. Therefore, the applicants respectfully submit that claim 27 as amended provides a proper antecedent basis for claim 14.

The Examiner has rejected claims 9 and 18 for being indefinite. In response to the Examiner's rejection and as recommended by the Examiner, claims 9 and 18 have been amended to recite "wherein the subject is in his or her seventh or eighth decade of life." Applicants respectfully submit that the present amendment renders the claim definite, thereby obviating the Examiner's rejection.

The Examiner has also rejected claims 7 and 16 for being vague and ambiguous. In response to the Examiner's rejection, but without conceding the correctness of the rejection, claim 1 has been amended. As noted previously, claim 1 has been amended to recite a method of assessing the risk of neurological disease. Therefore, claim 7 adds a further limitation wherein assessing the risk is diagnosing. The applicants respectfully submit that diagnosing a disease is distinct from assessing the risk of disease. Also, in response to the Examiner's rejection, claim 16 has been amended in order to clarify the phrase "from a subject to a normal level." Applicants respectfully submit that the present amendment more

clearly distinguishes the applicants invention, thereby rendering the Examiner's rejection moot.

V. Information Disclosure Statement of June 28, 2002

The Examiner has noted that reference nos. 33-72 of the Information Disclosure Statement filed June 28, 2002 (Paper No. 4) were not present among the papers provided by the applicant. Applicants note that the return postcard mailed June 28, 2002 indicated receipt of the references by the USPTO. A copy of the postcard is enclosed herewith as Exhibit A.

In a telephone conversation on December 17, 2003, the Examiner again indicated that reference nos. 33-72 had not been scanned into electronic format and that there was no record of the references in the central records department of the USPTO. For the completeness of the record and the convenience of the Examiner, the applicants resubmit herewith references nos. 33-72. Also submitted herewith is a copy of PTO Form 1449 submitted originally with references nos. 33-72 at Exhibit B.

CONCLUSIONS

In view of the above amendments and remarks, the applicants respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

Dated: December 19, 2003

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